

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

<p>JULIANNE F. TROUT,</p> <p style="text-align: center;">Plaintiff</p> <p style="text-align: center;">v.</p> <p>WILLIAM C. CARTER JR., CROWLEY SERVICES, CROWLEY HOLDINGS LLC, CROWLEY HOLDINGS INC, RYDER TRUCK RENTAL, RYDER TRUCK RENTAL, INC.</p> <p style="text-align: center;">Defendant</p>	<p>CIVIL ACTION – LAW</p> <p>NO.</p> <p>NOTICE OF REMOVAL AND COPIES OF ALL PROCESS AND PLEADINGS</p>
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NOTICE OF REMOVAL AND COPIES OF ALL PROCESS AND PLEADINGS

Pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, Defendant Ryder Truck Rental, Inc., incorrectly also identified as Ryder Truck Rental (“Ryder”) submits the following Notice of Removal from the Court of Common Pleas of the Commonwealth of Pennsylvania, County of Philadelphia, the Court in which the above-referenced matter is now pending, to the United States District Court for the Eastern District of Pennsylvania. In support of its Notice of Removal, Ryder states as follows:

Nature of Action

1. This action arises out of an alleged motor vehicle accident on January 29, 2018 on Interstate 76 in Bowmansville, Lancaster County, PA.
2. Plaintiff commenced this action on March 6, 2019 by filing a Complaint in the Court of Common Pleas of the Commonwealth of Pennsylvania, County of Philadelphia, March Term 2019, No 000747. *See* Exhibit A.

3. Pursuant to 28 U.S.C. § 1446(a), Ryder has attached copies of all process, pleadings and orders served upon them, including: A true and correct copy of Plaintiff's Summons and Complaint, dated March 6, 2019. *See* Exhibit A.

Timeliness of Removal

4. Defendant Ryder Truck Rental, Inc. was served on March 11, 2019.

5. This Notice of Removal is being filed within thirty (30) days after service of Plaintiff's Summons and Complaint, and is therefore timely pursuant to 28 U.S.C. § 1446(b).

Amount in Controversy

6. A defendant's notice of removal need only include a "plausible allegation" the amount in controversy exceeds the jurisdictional threshold. Dart Cherokee Basin Operating Co., LLC v. Owens, 135 S. Ct. 547, 554 (2014) (citing 28 U.S.C. § 1446(a)).

7. The amount in controversy in this case exceeds \$75,000, exclusive of interest and costs. In her complaint, Plaintiff has demanded an amount in excess of \$50,000 in addition to punitive damages and other amounts against Defendants. *See* Exhibit A.

Diversity of Citizenship

8. According to Plaintiff's Complaint, Plaintiff is an individual who resides in Pennsylvania at 947 Foulkrod St., Philadelphia, Pennsylvania 19124. *See* Exhibit A at ¶1. It is therefore presumed that Plaintiff is a citizen of Pennsylvania.

9. According to Plaintiff's Complaint, Defendant William C. Carter Jr. is an individual who resides in New Jersey at 48 South DuPont Road Carney's Point, NJ. *See* Exhibit A at ¶1. It is therefore presumed that William C. Carter Jr. is a citizen of New Jersey.

10. Ryder Truck Rental, Inc. is a Delaware Corporation with a principal place of business at 11690 NW 105th Street Medley, FL 33178.

11. Plaintiff names several “Crowley” Defendants (Crowley Services, Crowley Holdings, LLC and Crowley Holdings Inc.) but does not lay out distinct claims against them, rather the claims are the same.

12. The police report for this incident identifies the involved Crowley entity and thus proper defendant as the one bearing USDOT Number 00154438. *See* Exhibit B. The entity / proper defendant bearing that USDOT Number is Crowley Holdings Inc. *See* FMSCA company snapshot downloaded from safer.fmcsa.dot.gov attached as “Exhibit C.”

13. Crowley Holdings, Inc. is a Delaware Corporation with a principal place of business at 9487 Regency Square Blvd., Jacksonville, FL 32225.

14. Crowley Holdings, Inc. does not operate at and is not related in any way with any business located at 1001 Lancaster Avenue, Berwyn, PA 19312.

15. Crowley Services and Crowley Holdings, LLC are fraudulently joined for purposes of defeating diversity and “there is no reasonable basis in fact or colorable ground supporting the claim against [those] joined defendant[s],” *See In re Briscoe*, 448 F.3d 201, 216 (3d Cir. 2006); *See also* U.S.C. § 1446(b)(2)(A). *See Roggio v. McElroy, Deutsch, Mulvaney & Carpenter*, 415 F. App'x 432, 433 (3d Cir. 2011).

16. Pursuant to 28 U.S.C. § 1332 (e)(1), full diversity exists among all parties in this action because the properly joined defendants are citizens of states other than the state where Plaintiff is a citizen.

Plea for Removal

17. 28 U.S.C. §1441(a) provides that a state court action over which a district

court of the United States would possess original jurisdiction may be removed to the district court for the district and division embracing the place where the state court action is pending.

18. There is complete diversity of citizenship and the amount in controversy exceeds the jurisdictional requirement of seventy-five thousand dollars (\$75,000.00); therefore, this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1332 and removal of this proceeding to this Court is proper pursuant to 28 U.S.C. § 1441.

19. No proper defendant is a citizen of the forum state of Pennsylvania such that removal is not precluded by 28 U.S.C. §1441(b).

20. This Court has extended the fraudulent joinder doctrine to apply to the forum defendant rule and therefore Crowley Services and Crowley Holdings, LLC are not forum defendants. *See Yellen v. Teledne Cont'l Motors, Inc.*, 832 F. Supp. 2d 490, 503 (E.D. Pa. 2011).

21. All defendants consent to removal.

22. Since the Philadelphia County Court of Common Pleas is located within the Eastern District of Pennsylvania, removal of this case to the United States District Court for the Eastern District of Pennsylvania is proper because it is the “district and division embracing the place where such action is pending.” 28 U.S.C. §1441(a).

23. Written notice is being given to all parties and to the Clerk of the Court of Common Pleas of the Commonwealth of Pennsylvania, County of Philadelphia, that this Notice of Removal is being filed with this Court.

WHEREFORE, Ryder Defendants respectfully request that the entire state court action under Docket No. 000747, currently pending in the Court of the Common Pleas of

the Commonwealth of Pennsylvania, County of Philadelphia, be removed to this Court
for all further proceedings.

GOLDBERG SEGALLA LLP

Dated: 4/10/19

BY: 

SEAN T. STADELMAN, ESQUIRE

OWEN R. FIELD, ESQUIRE

Attorneys for Defendant Ryder Truck Rental,
Inc.

Mailing address: PO Box 580, Buffalo, NY 14201

1700 Market Street Suite 1418

Philadelphia, PA 19119

T: 267-519-6800 / F: 267-519-6801

sstadelman@goldbergsegalla.com

ofield@goldbergsegalla.com

CERTIFICATE OF SERVICE

I hereby certify that on the date shown below, a true and correct copy of the foregoing Notice of Filing Notice of Removal was served upon all counsel of record via U.S. First Class Mail and/or electronic mail.

GOLDBERG SEGALLA, LLP



OWEN R. FIELD, ESQUIRE

*Attorneys for Defendant Ryder Truck Rental,
Inc.*

Date: 4/10/19